

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

LLS AMERICA, LLC,

Debtor,

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Plaintiff,

v.

ANGELA MIRROW, et al.,

Defendants.

NO: 2:14-CV-268-RMP

Bankr. Case No. 09-06194-FPC11

ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
RECONSIDERATION

Before the Court is Plaintiff's Motion for Reconsideration and to Amend
Order, ECF No. 59. The Court has considered the record and is fully informed.
The parties and the Court are familiar with the facts of this case, which will not be
repeated here.

ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR
RECONSIDERATION ~ 1

1 Plaintiff filed this motion for hearing with oral argument at the scheduled
2 pretrial conference. However, where oral argument is requested, “the Court may
3 decide that oral argument is not warranted and proceed to determine any motion
4 without oral argument.” LR 7.1(h)(3)(B)(iii). Oral argument on this matter is
5 unnecessary.

6 Plaintiff requests the Court to reconsider its Order Granting in Part and
7 Denying in Part Motion for Summary Judgment, ECF No. 54. Plaintiff brings its
8 motion under Federal Rules of Civil Procedure 59(e) and 60(b). Reconsideration
9 pursuant to Rule 59(e) “is appropriate if the district court (1) is presented with
10 newly discovered evidence, (2) committed clear error or the initial decision was
11 manifestly unjust, or (3) if there is an intervening change in controlling law.” *See*
12 *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th
13 Cir. 1993). Rule 60(b) permits “reconsideration only upon a showing of (1)
14 mistake, surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud;
15 (4) a void judgment; (5) a satisfied or discharged judgment; or (6) ‘extraordinary
16 circumstances’ which would justify relief.” *Fuller v. M.G. Jewelry*, 950 F.2d
17 1437, 1442 (9th Cir. 1991).

18 Plaintiff requests the Court to amend its prior order regarding three separate
19 issues. The Court considers each issue in turn.

1 First, Plaintiff asks the Court to state that the jury must decide whether
2 Defendant is entitled to a setoff under RCW 19.40.081. Regarding this issue,
3 Plaintiff disagrees with the Court's discussion of the indirect benefit rule and
4 contends that a jury should be allowed to decide whether Defendant's husband,
5 Alex Mirrow, relinquished any right to use the relevant transfer as a setoff.

6 In its argument regarding the indirect benefit rule, Plaintiff largely reiterates
7 its contentions from the motion for summary judgment. Plaintiff has provided no
8 basis for the Court to reconsider its understanding of the indirect benefit rule.

9 Moreover, in the prior order, the Court did not decide whether Alex Mirrow
10 had relinquished any right to apply the transfer as a setoff for amounts that he
11 received from Debtor. Accordingly, it would be inappropriate to decide this issue
12 in response to the present motion for reconsideration.

13 Second, Plaintiff asks the Court to amend its order to clarify that Alex
14 Mirrow's good faith, which was litigated in a prior action, will not be litigated
15 again in this case. As Defendant recognizes in her response brief, the judgment
16 entered against Alex Mirrow is not subject to challenge in this action against his
17 wife. *See* ECF No. 60 at 5. To the extent that the Court's prior order implied
18 otherwise, the Court now clarifies that Alex Mirrow's good faith already has been
19 determined and is not subject to dispute in this case.

1 Third, and finally, Plaintiff asks the Court to limit the scope of argument and
2 evidence that Defendant may present regarding her husband's authority to act as
3 her agent in dealing with Debtor. As the Court explained in its prior order, the
4 existence of agency requires a fact-specific inquiry, and there is "a genuine dispute
5 as to Alex Mirrow's agency for Defendant." ECF No. 54 at 12-13. Plaintiff offers
6 no proper reason for the Court to reconsider its ruling on this matter.

7 In sum, the Court clarifies that the issue of Alex Mirrow's good faith is not a
8 proper subject of this case but otherwise denies Plaintiff's motion.

9 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion for
10 Reconsideration and to Amend Order, **ECF No. 59**, is **GRANTED IN PART**
11 **AND DENIED IN PART**.

12 The District Court Clerk is directed to enter this Order and provide copies to
13 counsel.

14 **DATED** this 14th day of April 2015.

15 s/ Rosanna Malouf Peterson
16 ROSANNA MALOUF PETERSON
17 Chief United States District Court Judge
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